

1 KARL S. HALL
2 Reno City Attorney
3 WILLIAM J. McKEAN
4 Deputy City Attorney
5 Nevada State Bar No. 6740
6 CHANDENI K. SENDALL
7 Deputy City Attorney
8 Nevada State Bar No. 12750
9 Post Office Box 1900
10 Reno, Nevada 89505
11 (775) 334-2050
12 *Attorneys for Defendants City of Reno*
13 *and Michael Chaump*

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 CATHERINE CASTELLANOS,
13 LAUREN COURTNEY, RACHEL
14 JASPER, BRIANNA MORALES,
15 VICTORIA RACHET, LILY STAGNER,
16 NATALEE WELLS, CECELIA
17 WHITTLE, and MARYANN ROSE
18 BROOKS, on behalf of themselves and all
19 other similarly situated,

18 Plaintiffs,

20 vs.

21 CITY OF RENO and MICHAEL
22 CHAUMP, in his official capacity as
23 Business Relations Manager of
24 Community Development and Business
25 Licenses for the CITY OF RENO and
26 DOES I through 10, inclusive,

25 Defendants.

CASE NO.: 3:19-cv-00693-MMD-CLB

Related Prior Case No.:
3:17-cv-00574-MMD-VPC

**DEFENDANTS CITY OF RENO AND
MICHAEL CHAUMP'S OPPOSITION
TO THIRD PARTIES' MOTION FOR
PROTECTIVE ORDER (ECF 39)**

27 Defendants City of Reno ("City") and Michael Chaump ("Chaump") (collectively,
28 "Defendants" or the "City"), by and through their attorneys, Reno City Attorney Karl S. Hall,

1 and Deputy City Attorney William J. McKean, hereby submit their Opposition to Third Parties’
 2 Motion for Protective Order, filed by Wild Orchid, Fantasy Girls, Spice House, The Men’s Club,
 3 and Pangborn & Co., Ltd. (the “Subpoenaed Non-Parties”). ECF 39.

4 **ARGUMENT**

5 On July 21, 2020, the City served subpoenas on each of the Subpoenaed Non-Parties.
 6 **Exhibit 1** (Affidavits of Service). On August 7, 2020, the named Plaintiffs in this case moved to
 7 quash the non-party subpoenas. ECF 34. The City responded on August 21, 2020, pointing out:
 8 (i) Plaintiffs lack standing to challenge the non-party subpoenas, and (ii) Plaintiffs failed to show
 9 the requested information is not relevant. ECF 36. The City also noted that *only one* of the
 10 Subpoenaed Non-Parties (Pangborn) had responded in any way to City’s subpoenas. *Id.*, Ex. 4.

11 Now, the Subpoenaed Non-Parties have filed the instant motion in an explicit attempt to
 12 cure the standing defect in Plaintiffs’ motion to quash. Such an attempt is unavailing.

13 First, not one of the Subpoenaed Non-Parties timely objected to the subpoenas. FRCP
 14 45(d)(2)(B) (objections to a document subpoena must be served in writing “before the earlier of
 15 the time specified for compliance or 14 days after the subpoena is served”). Accordingly, each
 16 of the Subpoenaed Non-Parties has waived any objections it may now wish to assert, and the
 17 City is entitled to all of the documents requested in the respective subpoenas. *Munoz v. Chartis*
 18 *Property Cas. Co.*, No. 14-87, 2014 WL 3375509, at * 2 (D. Nev. July 7, 2014) (third-party
 19 corporate subpoena recipients waived all objections due to their failure to timely object pursuant
 20 to Rule 45; granting motion to compel and ordering that subpoena recipients produce full
 21 responses, without objection); *Avila v. Cate*, No. 09-918, 2013 WL 2456482, at * 3 (E.D. Cal.
 22 June 6, 2013) (holding that Magistrate Judge did not err in finding that third-party’s objections to
 23 subpoena were untimely and therefore waived).

24 Second, Subpoenaed Non-Parties’ motion fails to include any “certification that the
 25 movant has in good faith conferred or attempted to confer with other affected parties . . .” FRCP
 26 26(c). Accordingly, it should not be considered by the Court. Local Rule 26-6(c).

27 Third, even if the motion were to be considered, the Subpoenaed Non-Parties have not
 28 met their burden. Here, the Subpoenaed Non-Parties vaguely state that the “burden of

1 production is substantial,” and “very intrusive into the affairs” of other persons. ECF 39 at 2.
2 Such amorphous assertions are insufficient bases for the issuance of a protective order. *Foltz v.*
3 *State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1130-31 (9th Cir. 2003) (“A party asserting good
4 cause bears the burden, for each particular document it seeks to protect, of showing that specific
5 prejudice or harm will result if no protective order is granted”) (internal citations omitted);
6 *Deford v. Schmid Prods. Co.*, 120 F.R.D. 648, 653 (D. Md. 1987) (requiring party requesting a
7 protective order to provide “specific demonstrations of fact, supported where possible by
8 affidavits and concrete examples, rather than broad, conclusory allegations of potential harm”).
9 The Subpoenaed Non-Parties provide no specific bases as to how and why each document
10 request is a “burden” or “very intrusive.”

11 For the reasons stated above, the Court should deny Third Parties’ Motion for Protective
12 Order.

13 DATED this 18th day of September, 2020.

14 KARL S. HALL
15 Reno City Attorney

16
17 By: /s/ William J. McKean
18 WILLIAM J. McKEAN
19 Deputy City Attorney
20 CHANDENI K. SENDALL
21 Deputy City Attorney
22 Post Office Box 1900
23 Reno, Nevada 89505
24 *Attorneys for Defendants City of Reno*
25 *and Michael Chaump*
26
27
28

CERTIFICATE OF SERVICE

Pursuant to LR IC 5-1, I certify that I am an employee of the RENO CITY ATTORNEY'S OFFICE, and that on this date, I am serving the foregoing document(s) on the party(s) set forth below by:

_____ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

_____ Personal delivery.

 X CM/ECF electronic service, addressed as follows:

Mark R. Thierman, Esq. *mark@thiermanbuck.com*
Joshua D. Buck, Esq. *josh@thiermanbuck.com*
Leah L. Jones, Esq. *leah@thiermanbuck.com*
THIERMAN BUCK, LLP
7287 Lakeside Drive
Reno, Nevada 89511

Attorneys for Plaintiffs

Eric M. Epstein, APC *emepstein@aol.com*
1901 Avenue of the Stars, #1100
Los Angeles, California 90067

*Attorneys for Plaintiffs Rachael
Jasper, Victoria Rachet, Maryanne
Rose Brooks and Lily Stagner*

_____ Facsimile (FAX).

_____ Federal Express or other overnight delivery.

_____ Reno/Carson Messenger Service.

DATED this 18th day of September, 2020.

By: /s/ Jeanette Sparks

Jeanette Sparks
Legal Assistant

Exhibit List

Ex.	Document
1	Affidavits of Service